

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JAMES LEE DOYLE,

Petitioner,

v.

ORDER

09-cv-57-bbc

JUDY SMITH, Warden,
Oshkosh Correctional Institution,

Respondent.

Petitioner James Lee Doyle, a prisoner at the Oshkosh Correctional Institution, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has paid the \$5 filing fee. The petition is before the court for preliminary review pursuant to Rule 4 of the Rules Governing Section 2254 Cases.

Petitioner challenges a September 2004 conviction in the Circuit Court for Racine County for two counts of first degree sexual assault. Pursuant to 28 U.S.C. § 2241(d), an applicant for federal habeas relief in a state like Wisconsin having two or more federal judicial districts must file his application either in the district where the applicant is in custody or in the district in which the state court that convicted and sentenced him is located. Petitioner was convicted by a court located in the Eastern District of Wisconsin and

he is in custody in an institution located in the Eastern District of Wisconsin. Accordingly, the proper venue for this action is the Eastern District of Wisconsin.

Because of the time constraints placed on the filing of habeas petitions by § 2244(d), I find that it is more just to transfer petitioner's application to the Eastern District of Wisconsin for further hearing and determination, as allowed by § 2241(d), than to direct him to refile his petition in that court.

ORDER

IT IS ORDERED that the clerk of court shall transfer the petition to the United States District Court for the Eastern District of Wisconsin pursuant to § 2241(d).

Entered this 20th day of February, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge